Revised 03/06 WDNY

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NEW YORK 10 CV 6531 FC

FORM TO BE USED IN FILING A COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

(Prisoner Complaint Form)

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION	STATES DISTRICTOR
A. Full Name And Prisoner Number of Plaintiff: NOTE: If more than one pauperis status, each plaintiff must submit an in forma pauperis application and a signe considered will be the plaintiff who filed an application and Authorization. 1. Thomas B. Siucae #0980277	
2	
B. Full Name(s) of Defendant(s) NOTE: Pursuant to Fed.R. Civ.P. 10(a), the nan The court may not consider a claim against anyone not identified in this section as a defend you may continue this section on another sheet of paper if you indicate below that you have 1. Liestenant Timethy Gray NTPD 4. 2. Officer Settra: Smith NTPD 5. 3. Officer Keith Glass NTPD 6.	lant. If you have more than six defendants, done so.
2. STATEMENT OF JURISDICTION This is a civil action seeking relief and/or damages to defend and protect the rights United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.	
3. PARTIES TO THIS ACTION PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this formate. Name and Prisoner Number of Plaintiff: Thomas B. Since. Present Place of Confinement & Address: Afficia CF, Box 149, A	
Name and Prisoner Number of Plaintiff: Present Place of Confinement & Address:	

	ENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this
	on another sheet of paper. of Defendant: Lieutenant Timothy Gray NTPD
Name	of Defendant: Lieutenant timothy Clay IVID
	plicable) Official Position of Defendant: Lieutenant North Tonawanda Police Dept.
` .	plicable) Defendant is Sued inIndividual and/orOfficial Capacity
Addre	ess of Defendant: do not know
Name	of Defendant: Officer Jeffrey Smith
(If ap	plicable) Official Position of Defendant: Police Officer North Tonawanda Police Dept
	plicable) Defendant is Sued in Individual and/or Official Capacity
	ess of Defendant: do not Know
, iddi	ON OF BOTOMANN. NO. 10. 10. 10. 10. 10. 10. 10. 10. 10. 10
(If ap	e of Defendant: Officer Keith Glass splicable) Official Position of Defendant: Solice Officer North Tongguardae Police Dept. splicable) Defendant is Sued in Individual and/or Official Capacity ess of Defendant: onet know 4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action? Yes No
	s, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this n, use this format to describe the other action(s) on another sheet of paper.
1.	Name(s) of the parties to this other lawsuit:
	Plaintiff(s):
	Defendant(s):
2.	Court (if federal court, name the district; if state court, name the county):
3.	Docket or Index Number:
4.	Name of Judge to whom case was assigned:

5.	The approximate date the action was filed:
ó .	What was the disposition of the case?
	Is it still pending? Yes No
	If not, give the approximate date it was resolved.
	Disposition (check the statements which apply):
	<u>Dismissed</u> (check the box which indicates why it was dismissed):
	By court <i>sua sponte</i> as frivolous, malicious or for failing to state a claim upon which relief can be granted;
	By court for failure to exhaust administrative remedies;
	By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
	By court due to your voluntary withdrawal of claim;
	Judgment upon motion or after trial entered for
	plaintiff
	defendant.
If Ye use t	es, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, this same format to describe the other action(s) on another sheet of paper.
1.	Name(s) of the parties to this other lawsuit:
	Plaintiff(s):
	Defendant(s):
2.	District Court:
3.	Docket Number:
4.	Name of District or Magistrate Judge to whom case was assigned:
5.	The approximate date the action was filed:
6.	What was the disposition of the case?
	Is it still pending? Yes No
	If not, give the approximate date it was resolved.

	Dismisse	d (check the box which indicates why it was dismissed):
	-	By court <i>sua sponte</i> as frivolous, malicious or for failing to state a claim upon which relief can be granted;
	·	By court for failure to exhaust administrative remedies;
		By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
		By court due to your voluntary withdrawal of claim;
-	Judgmen	t upon motion or after trial entered for
	1	plaintiff
	(defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- Religion
- Access to the Courts

• Free Speech • Due Process

• Equal Protection

- False Arrest
- Excessive Force
- Failure to Protect
- Search & Seizure
- Malicious Prosecution
- Denial of Medical Treatment
- Right to Counsel

Please note that it is not enough to just list the ground(s) for your action. You must include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). Fed.R.Civ.P. 10(b) states that "[all averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far a practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prison er confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

EFRST CLAIM: On (date of the incident) Sept 29, 2007 efendant (give the name and position held of each defendant involved in this incident) Lt. Tincthy Gray. Others' Jeffrey Smith and Keith Glass (N.T.P.D.) id the following to me (briefly state what each defendant named above did): After being tasered and lying incaper it ated on a concrete floor these. 3 others on lead twisted and cram so hard an my right arm that it was pulled out of the socket and the bired ansele was form from the bone. At this print I am handwited and focked as the floor the next thing that happens is Lt Gray grabs we by the back of my read and slams my face into the consisted floor 3 times crushing my rose. He hands a top of the print Smith Glass did absolutely nothing to stop this for twee. The constitutional basis for this claim under 42 U.S.C. \$ 1983 is: a violation of the Lt the constitutional basis for this claim under 42 U.S.C. \$ 1983 is: a violation of the Lt the Land for the constitutional basis for this claim under 42 U.S.C. \$ 1983 is: a violation of the Lt the Land for the land of the Lt the Land for the land of the Lt the Lt the Land for the Lt t	
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If you did not exhaust your administrative remedies, state why you did not do so: This claim is against the arresting officers (North Top.) I have no remedies to exhaust.	Did you appeal that decision? Yes No If yes, what was the result?
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	the arresting officers (North Top.) I have no remedies to exhaust.
A. SECOND CLAIM: On (date of the incident),	
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A. SECUID CLAIM. On that of the incident)	A SECOND CLAIM. On (date of the incident)
1. C. L. (C. L.	
defendant (give the name and position neid of each defendant involved in this incident)	defendant (give the <u>name and position held</u> of <u>each defendant</u> involved in this incident)

did the following to me (briefly state what each defendant named above did):
The constitutional basis for this claim under 42 U.S.C. § 1983 is:
The relief I am seeking for this claim is (briefly state the relief sought):
Exhaustion of Your Administrative Remedies for this Claim:
Did you grieve or appeal this claim? Yes No If yes, what was the result?
Did you appeal that decision? Yes No If yes, what was the result?
Attach copies of any documents that indicate that you have exhausted this claim.
If you did not exhaust your administrative remedies, state why you did not do so:
If you have additional claims, use the above format and set them out on additional sheets of paper
6. RELIEF SOUGHT Summarize the relief requested by you in each statement of claim above.
Tan regresting 28 million in compensatory and punitive damages
and that these three officers be terminated from the N.T.P.D.
De sure acceptacion Voc. X No.

I declare under penalty of perjury that the foregoing is true and correct.	
Executed on Sept 14, 2010	
(date) NOTE: Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court. B- Since 093277	
	_
Signature(s) of Plaintiff(s)	_